

### **REMARKS**

Applicants have carefully reviewed the Office Action dated July 25, 2007. Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. Claims 15-19 have been amended for grammatical purposes. No new matter has been added as a result of these amendments.

In the Office Action, the oath or declaration was noted as defective as not being in compliance with 37 C.F.R. § 1.67(a). Applicants respectfully traverse the rejection and request that this objection be withdrawn as improper. The declaration filed with this application is in compliance with 37 C.F.R. § 1.67(a).

When the changes in rules relating to the duty of disclosure in 37 C.F.R. parts 1 and 10 were promulgated in 1992, the Office stated, in reply to comment 38, that “The averments in oath or declaration forms presently in use that comply with the previous § 1.63 or § 1.175 will also comply with the requirements of the new rules. Therefore, the Office will continue to accept the old oath or declaration forms as complying with the new rules.” 57 Fed. Reg. 2021. The previous 37 C.F.R. § 1.63(b)(3) required that “the person making the oath or declaration...acknowledges the duty to disclose information which is material to the examination of the application in accordance with § 1.56(a).” Because the averment in declaration filed with this application complies with the previous § 1.63, it also complies with the current § 1.63, according to the properly promulgated Notice of Final Rulemaking at 57 Fed. Reg. 2021 and according to longstanding practice in the USPTO. Applicants therefore request the withdrawal of the rejection of the declaration.

Applicants further understand from the Office of Patent Legal Administration that a notice in the Official Gazette will be published shortly that is consistent with this understanding of the rules for oaths or declarations filed prior to the publication of the notice in the Official Gazette.

Applicants have received initialed PTO-Forms 1449 which has been submitted on May 17, 2004 and May 11, 2005 confirming consideration of cited art. However, it is noted that the non-patent art included on PTO-Form 1449 filed May 14, 2004 was crossed out indicating that it was not considered. A review the article indicates that is in the Italian language. However an English language translation also appears on the same sheet inside a box on the lower, center part

of the page. Applicants request consideration of the non-patent art and request a copy of the Form PTO-1449 initiated by the Examiner showing that it was considered.

Applicants respectfully traverse the Examiner's rejection of claims 1-5 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. One of the requirements of a *prima facie* obviousness rejection is that the cited combination must disclose each and every claimed element. At a minimum, this requirement has not been met. Applicants do not concede that the other requirements, i.e., motivation to combine and reasonable expectation of success, have been met.

The Examiner admits that Saab fails to disclose a tie layer includes a polyester polymer and a polyamide polymer, but relies upon Lee as suggesting that it would be obvious to include a tie layer in the Saab device that includes a polyester polymer and a polyamide polymer. This is incorrect.

Lee does not disclose or suggest use of a tie layer. Rather, Lee discloses including a bonding polymeric component within a polymer blend forming a structure to be joined. This is not the same as disclosing or suggesting a distinct tie layer having properties (and thus compatibility) that is intermediate between the two structures to be joined. Moreover, it is noted that Lee describes a polyamide polymer as one embodiment of a bonding component (see column 3, lines 14-15) and describes polyester as another embodiment (see column 3, lines 53-54). Disclosure of two materials as distinctly different embodiments cannot be considered as disclosing or suggesting a combination of the two materials.

Thus, Lee does not describe or suggest combining these two polymers, much less combining these two polymers within a tie layer. Therefore, Lee cannot be considered as remedying the noted shortcoming of Saab. As a result, the cited combination of Saab and Lee fails to disclose each and every claimed element, and thus the *prima facie* obviousness rejection is flawed and should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 6-9 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. Claim 1, from which claims 6-9 depend, is distinguished above as being patentable over Saab and Lee. Claims 6-9 are similarly patentable for at least the same reasons, and moreover add additional elements. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claim 10 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. As discussed above, the combination of Saab and Lee fail to describe or suggest a tie layer that includes both polyester polymer and polyamide polymer. Thus, claim 10 is patentable over the cited combination of Saab in view of Lee. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 11-14 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. Claim 10, from which claims 11-14 depend, is distinguished above as being patentable over Saab and Lee. Claims 11-14 are similarly patentable for at least the same reasons, and moreover add additional elements. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claim 15 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. As discussed above, the combination of Saab and Lee fail to describe or suggest a tie layer that includes both polyester polymer and polyamide polymer. Thus, claim 15 is patentable over the cited combination of Saab in view of Lee. Favorable reconsideration is respectfully requested.

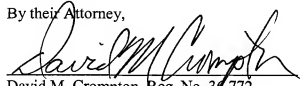
Applicants respectfully traverse the Examiner's rejection of claims 16-20 under 35 U.S.C. §103(a) as unpatentable over Saab, U.S. Patent No. 5,499,973, in view of Lee, U.S. Patent No. 6,217,547. Claim 15, from which claims 16-20 depend, is distinguished above as being patentable over Saab and Lee. Claims 16-20 are similarly patentable for at least the same reasons, and moreover add additional elements. Favorable reconsideration is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

John Chen et al.

By their Attorney,



David M. Crompton, Reg. No. 36,772  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, MN 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349

Date: \_\_\_\_\_

10/25/07